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 KIRBY MORGAN DIVE SYSTEMS, INC.

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

SURFACE SUPPLIED, INC., a California
 corporation,

Plaintiff,

vs.

KIRBY MORGAN DIVE SYSTEMS, INC.,
 a California Corporation,

Defendant.

KIRBY MORGAN DIVE SYSTEMS, INC.,
 a California Corporation,

Counterclaimant,

vs.

SURFACE SUPPLIED, INC., a California
 corporation; Heliox TECHNOLOGIES,
 INC., a California corporation; and JASON
 VAN DER SCHYFF, an individual, and
 DOES 1-9,

Counter-Defendants.

CASE NO. CV 13-0575 MMC

[Hon. Maxine M. Chesney]

**~~[PROPOSED]~~ ORDER OF DISMISSAL
 PURSUANT TO RULE OF CIVIL
 PROCEDURE 41(a)(2)**

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[PROPOSED] ORDER


Plaintiff and Counter-Defendant Surface Supplied, Inc. ("Surface Supplied"), Counter-Defendant Heliox Technologies, Inc. ("Heliox"), Counter-Defendant Jason Van der Schyff ("Van der Schyff") and Defendant and Counterclaimant Kirby Morgan Dive Systems, Inc. ("Kirby Morgan") (collectively "the Parties") have jointly moved this Court for an order of dismissal pursuant to *Rule of Civil Procedure 41(a)(2)*. The Parties request that the Court incorporate the terms of the parties' settlement agreement into the dismissal order by reference and that the Court retain jurisdiction to enforce the agreement under the authority of *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 381-382, 114 S. Ct. 1673, 128 L. Ed. 2d 391 (1994). The Court finds that the Parties' settlement agreement is complete; includes a statement that the Court retain jurisdiction to enforce the agreement; and, has been executed by the Parties.

Proof having been made to the satisfaction of the Court that the Motion should be granted, and good cause appearing therefore,

THE COURT HEREBY ORDERS, ADJUDGES AND DECREES that:

- (1) Pursuant to *Rule of Civil Procedure 41(a)(2)*, this action is dismissed, in its entirety, with prejudice;
- (2) The terms of the Parties' settlement agreement, ^{filed March 20, 2014, as} ~~appended to this Order as~~ to the Declaration of Daniel M. Cislo Exhibit A, are incorporated herein by reference; and
- (3) The Court shall retain jurisdiction of this matter to enforce the terms of the settlement agreement.

IT IS SO ORDERED.Date: March 21, 2014


 Hon. Maxine M. Chesney
 United States District Judge

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2 Respectfully submitted,
3 CISLO & THOMAS, LLP

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5 By: /s/Daniel M. Cislo
6 Daniel M. Cislo
7 David B. Sandelands
8 Mark D. Nielsen
9 Attorneys for Defendant and Counterclaimant,
10 KIRBY MORGAN DIVE SYSTEMS, INC.
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